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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/601,810
Filing Date: August 03, 2000
Appellant(s): COLVER, ROBERT JOHN

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 3/8/2005 appealing from the Office action mailed 2/5/2004.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

(3) Status of Claims

This appeal involves claims 42-56.

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 43-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Payne (US 5,735,639) in view of Bowers (US 3,605,350).

Payne teaches the module structure comprising at least three of rectangular frame members 130, 132, (figures 4-5, and 9-10) each rectangular frame member having a plurality of frame members 264, 266, 268 with a long (sidewall), and short (end walls) sides and running parallel to each other, horizontal runner 312, sheeting members 36-44 to the frame structure members for forming an enclosure 30, four external corner 282. Each of the rectangular frame members is formed by interconnecting four individual frame sections (fig. 8), and made by light steel material, C-shaped cross-section 334 (figs. 6-7). The module structures are stack-up side-by-side, and one on top of another (figs. 20-21).

Payne discloses a single horizontal runner at mid height and does not teach expressly the frame members with a plurality of horizontal runners parallel to each other and with a second predetermined spacing between each adjacent pair of runners to form a lattice framework. Bowers teaches the modular housing structure comprises frame members having a plurality of horizontal runners 28 spacing, parallel to each other (see figs. 3, 6 and 15). At the time of the invention, it would have been obvious to a person ordinary skill in the art to combine Payne with Bowers for the plurality of horizontal runners secured to the frame members. The motivation for doing so would have been to provide more embracement, rigidity and stronger unit walls.

Payne and Bowers teach the structural elements for the module but does not specifically recite the method of assembly, the actual method steps claimed merely

require basic steps of "forming", "connecting", extending", and "securing", etc. examiner considers these to be obvious method steps of setting up the device of claims because in bracing a wall form, one must obviously position two opposite sidewalls, secure to the corner elements, connect the frame structures to roof and floor frames, which also secure to the corner elements, attach more than one horizontal runners to the frame structures, attach wall sheets to the frames and stack one up to another module unit.

(10) Response to Argument

Applicant's arguments that none of the prior art teaches or suggested a method having these steps. In particular, the prior art Payne fails to disclose a method having steps 2-5 (vertically positioning of the at least three substantially similar rectangular frame member 4 in a row. Connection together of the rectangular frame members 4 by internal horizontal runners 6. Addition of corner members 10. And addition of sheeting). The examiner does not agree with the applicant's argument because: 1) Payne shows in figures 4-5 at least three rectangular frame members are vertically and parallel positioned in row. 2) The frame members are connected together by horizontal members or so-called runner. 3) Payne shows in figure 9, there are corner members connecting the frame members together to form a module. 4) And finally, Payne shows in figure 19, sheeting enclosing the frame members to form housing or module, etc. Obviously, the very basic method steps recited in the claims would have been followed to create the finished structure. However, the examiner does agree with the applicant that the Payne does not show a plurality of horizontal runners parallel to each other. Bowers teaches a module having sidewalls, end walls, ceiling and a floor. The sidewalls

and floor show in figures 3, 6, and 15 having a plurality of runners embracing vertical frame members. As set forth above, it would have been obvious to one having an ordinary skill in the art to combine Payne with Bowers for the runners securing along the frame members to embrace, and reinforce for the walls. And thus the load would evenly distributed through out the frame members and runners. In regard to the applicant's argument that Bower teaches away from forming a lattice framework because it discloses a module with an open side. The examiner does not agree with the applicant's argument because Bower shows in figure 1, a module with closed four sides and with figure 2, shows a perspective view of a modular half section of figure 1, to see structures of the framework, etc. thus it's showing a lattice framework.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Chi Q. Nguyen

3/15/2006

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